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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Andorra,* Angola, Argentina,* Azerbaijan,* Belgium, Bosnia and Herzegovina,* Brazil, Bulgaria,* Chile, Colombia,* Costa Rica,* Croatia, Cyprus,* Denmark,* Ecuador, Estonia,* Finland,* Georgia, Greece,* Honduras,* Iceland,* Ireland* Italy,* Luxembourg,* Madagascar,* Malta,* Mexico, Montenegro,* Mozambique,* Netherlands,* Norway,* Paraguay,* Peru, Poland,* Portugal,* Romania,* San Marino,* Slovakia, Sweden,* Switzerland, Thailand,* the former Yugoslav Republic of Macedonia,* Turkey,* Uruguay:* draft resolution

38/... Human rights in the context of HIV and AIDS

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights, and all relevant international human rights treaties,

Reaffirming also that all human beings are born free and equal in dignity and rights, and recognizing that these rights derive from the inherent dignity of the human person,

Reaffirming further that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing,

Recalling Human Rights Council resolutions 12/27 of 2 October 2009, 30/8 of 1 October 2015, 32/15 of 1 July 2016, 35/23 of 23 June 2017 and 36/13 of 28 September 2017, and other relevant resolutions of the Council and the Commission on Human Rights,

Reaffirming the Political Declarations on HIV and AIDS adopted by the General Assembly on 2 June 2006, 10 June 2011 and 8 June 2016, and the Declaration of Commitment on HIV/AIDS adopted by the Assembly on 27 June 2001,

Recalling the International Guidelines on HIV/AIDS and Human Rights, annexed to Commission on Human Rights resolution 1997/33 of 11 April 1997, which provide guidance on ensuring respect for and the protection and fulfilment of human rights in the context of HIV,

Recalling also resolution 60/2 on women, the girl child and HIV and AIDS, adopted on 24 March 2016 by the Commission on the Status of Women,

* State not a member of the Human Rights Council.

Recalling further the panel discussion held on 11 March 2016, at the thirty-first session of the Human Rights Council, to review the progress in, and challenges of, addressing human rights in the context of efforts to end AIDS by 2030,

Welcoming the 2017 Social Forum, on the promotion and protection of human rights in the context of the HIV epidemic and other communicable diseases and epidemics, and taking note with appreciation of its report,[1]

Recognizing the leading role of the Joint United Nations Programme on HIV/AIDS and its co-sponsor organizations, such as the World Health Organization, in the global effort to end AIDS by 2030,

Reaffirming General Assembly resolution 70/1 of 25 September 2015, entitled "Transforming our world: the 2030 Agenda for Sustainable Development", in which the Assembly adopted the outcome document of the United Nations summit for the adoption of the post-2015 development agenda and pledged that no one would be left behind,

Welcoming the Sustainable Development Goals, including Goal 3 on ensuring healthy lives and promoting well-being for all at all ages, and its specific and interlinked targets, particularly target 3.3, which envisages ending by 2030 the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combating hepatitis, waterborne diseases and other communicable diseases, as well as all other health-related Goals,

Recognizing that the 2030 Agenda is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law, and is grounded in the Universal Declaration of Human Rights, international human rights treaties, the United Nations Millennium Declaration and the 2005 World Summit Outcome, and is informed by other instruments, such as the Declaration on the Right to Development,

Recognizing also that the implementation of the 2030 Agenda must be consistent with a State's obligations under international human rights law,

Recognizing further that universal health coverage anchored in respect for and the protection and fulfilment of the human right to health is essential in the response to HIV and AIDS,

Noting with grave concern that, in spite of recent progress in the response to the HIV epidemic, approximately 36.7 million people are living with HIV globally, that an estimated 11.2 million people living with HIV are unaware of their HIV status, and that another 6 million who know of their infection have no access to antiretroviral therapy,

Particularly concerned that progress against the HIV epidemic is uneven across regions, countries and populations, that in some parts of the world new infections are increasing and access to HIV prevention, diagnosis, treatment, care and support remains limited; and that populations most in need of HIV services continue to be left behind,

Recognizing that women and girls are more vulnerable to HIV infection and that they bear a disproportionate burden of the impact of the HIV and AIDS epidemic, which includes care of and support for those living with and affected by HIV and AIDS, and that this negatively affects girls by depriving them of their childhood and diminishing their opportunities to receive an education, often resulting in their having to head households and increasing their vulnerability to the worst forms of child labour and to sexual exploitation,

Concerned at the continuing high prevalence of HIV among key populations,

Recognizing that addressing the holistic needs and rights of persons living with, at risk of or affected by HIV throughout the course of their life will require close collaboration with efforts to end poverty and hunger everywhere, to improve food and nutrition security and access to free, non-discriminatory primary and secondary education, to promote healthy lives and well-being, to provide access to HIV-sensitive social protection for all, including for children, to reduce inequalities within and among countries, to achieve gender equality and the empowerment of all women and girls, to provide for decent work and economic

[1] A/HRC/37/74.

empowerment and to promote healthy cities, stable housing and just and inclusive societies for all,

Reaffirming that the full realization of all human rights and fundamental freedoms for all is an essential element in the global response to the HIV epidemic, including in the areas of prevention, diagnosis, treatment, care and support, and that such a response reduces a person's vulnerability to HIV,

Recognizing that addressing stigma, discrimination, violence and abuse against all persons living with, presumed to be living with, at risk of, or affected by HIV is a critical element in ending AIDS,

Mindful of the importance of national, regional and international legal environments ensuring universal access to HIV-related prevention, diagnosis, treatment, care and support, including for key populations,

Recognizing the critical role and space of civil society, including communities, affected populations and community-based organizations, as a catalyst for rights-based and evidence-informed responses to HIV, and recognizing their long-standing contribution to the global response to AIDS,

Stressing the need for the international community to continue to assist developing countries in promoting the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including through access to medicines, in particular essential medicines, vaccines, diagnostics and medical devices that are affordable, safe, efficacious and of quality; financial and technical support and training of personnel, while recognizing that the primary responsibility for respecting, protecting and fulfilling all human rights rests with States; and recognizing the fundamental importance of the transfer of environmentally sound technologies on favourable terms, including on concessional and preferential terms, as mutually agreed,

Reaffirming the right to use, to the fullest extent, the provisions contained in the World Trade Organization Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS Agreement), which provides flexibilities for the protection of public health and promotes access to medicines for all, in particular for developing countries, and in the Doha Declaration on the TRIPS Agreement and Public Health, which recognizes that intellectual property protection is important for the development of new medicines and also recognizes the concerns about its effects on prices,

Bearing in mind paragraph 5 (h) of General Assembly resolution 60/251 of 15 March 2006, in which the Assembly decided that the Council should work in close cooperation with regional organizations,

Reaffirming the fact that regional arrangements play an important role in promoting and protecting human rights and should reinforce universal human rights standards, as contained in international human rights instruments, including in the context of the response to HIV,

1. *Affirms* that respect for and the protection and fulfilment of human rights in the context of HIV, including universal access to HIV-related prevention, diagnosis, treatment, care and support, are an essential element in achieving full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and in ending AIDS;

2. *Welcomes* the Political Declaration on HIV and AIDS: On the Fast Track to Accelerating the Fight against HIV and to Ending the AIDS Epidemic by 2030, adopted by the General Assembly in its resolution 70/266 on 8 June 2016, and urges States to take all steps necessary to implement the commitments therein;

3. *Calls upon* all States and relevant United Nations funds, programmes and specialized agencies, and international and regional intergovernmental and non-governmental organizations, to continue to take all steps necessary to ensure respect for and the protection and fulfilment of human rights and to prevent and eliminate stigma, discrimination, violence and abuse in the context of HIV as an essential part of efforts to

achieve the goal of universal access to HIV prevention, diagnosis, treatment, care and support;

4. *Urges* States to ensure full and unimpeded access, for all persons living with, presumed to be living with, at risk of, or affected by HIV, including key populations, to HIV prevention, diagnosis, treatment, care and support, in a public health environment free from discrimination, harassment or persecution against those seeking HIV-related services, while respecting and protecting their right to privacy, confidentiality, and free and informed consent;

5. *Also urges* States to bring their laws, policies and practices, including their strategies for implementing the HIV- and other health-related Sustainable Development Goals, fully into compliance with their obligations under international human rights law, and to review or repeal those that are discriminatory or that adversely affect the successful, effective and equitable delivery of HIV prevention, diagnosis, treatment, care and support programmes for all persons living with, presumed to be living with, at risk of, or affected by HIV, including key populations;

6. *Expresses grave concern* that discriminatory attitudes and policies towards persons living with, presumed to be living with, at risk of, or affected by HIV, including those co-infected by tuberculosis, continue to be reported, and that restrictive and punitive legal and policy frameworks continue to discourage and prevent people from having access to prevention, diagnosis, treatment, care and support services;

7. *Welcomes and encourages* regional efforts to set ambitious targets and design and implement strategies to accelerate the response to end AIDS;

8. *Encourages* the exchange, among countries and regions, of information, research, evidence, best practices and experiences for implementing the measures and commitments related to the global response to HIV and AIDS, as well as subregional, regional, interregional and global cooperation and coordination;

9. *Reaffirms* that access to safe, effective and affordable medicines, diagnosis and treatment for all, without discrimination, in the context of epidemics such as HIV and AIDS, is fundamental to the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

10. *Recognizes* the need to scale up national, regional and international efforts, including by increasing investments, funding, official development assistance, and technology transfer on mutually agreed terms, to reduce the rate of new HIV infections and AIDS-related deaths, in order to avoid the epidemic rebounding in some countries, which which may not reach the ambitious, time-bound targets and commitments already set, including the Joint United Nations Programme on HIV/AIDS 90-90-90 treatment targets by 2020 and the target of ending the AIDS epidemic by 2030;

11. *Strongly encourages* States, in the context of HIV prevention, diagnosis, treatment, care and support, to provide human rights education and training for health workers, the police, law enforcement officers and prison staff, and other relevant professions, with a special focus on non-discrimination, free and informed consent and respect for the will and preferences of all, confidentiality and privacy, and non-harassment, so as to allow outreach and other service activities and to exchange best practices in this regard;

12. *Stresses* that the lack of respect for and of protection and fulfilment of the human rights of all women and girls and their sexual and reproductive health and reproductive rights in accordance with the Programme of Action of the International Conference on Population and Development, the Beijing Declaration and Platform for Action and the outcome documents of their review conferences, and of their enjoyment of the right to the highest attainable standard of physical and mental health, aggravates the impact of the epidemic among them and increases their vulnerability;

13. *Calls upon* States to address as a priority the vulnerabilities faced by children affected by or living with HIV, providing those children and their families with social protection, support and rehabilitation, including social and psychological rehabilitation and

care, paediatric services and medicines, free from stigma and discrimination, and intensifying efforts to eliminate vertical transmission and to develop and provide early diagnosis tools, child-friendly medicine combinations and new treatments for children, particularly for infants living in resource-limited settings, and building, where needed, and supporting social security systems that protect them;

14. *Emphasizes* that addressing the specific needs of adolescents and young people, especially girls and young women, in the response to HIV is a key element in efforts to achieve an AIDS-free generation, and urges Member States to develop accessible, available and affordable primary health-care services of high quality, including sexual and reproductive health care, as well as comprehensive education programmes, including those related to sexually transmitted infections, and to strengthen efforts in this regard, including by ensuring the active involvement of young people living with or affected by HIV in the response;

15. *Calls upon* States to accelerate efforts to scale up scientifically accurate, age-appropriate comprehensive education, relevant to cultural contexts, that provides adolescent girls and boys and young women and men, in and out of school, consistent with their evolving capacities, with information on sexual and reproductive health, sexuality and HIV prevention, gender equality and women's empowerment, human rights, and physical, psychological and pubertal development;

16. *Recalls* that the multiple or aggravated forms of discrimination, stigma, violence and abuse often faced by persons living with, presumed to be living with or affected by HIV and by members of key populations have negative consequences for their enjoyment of the highest attainable standard of mental health;

17. *Emphasizes* the need to take into account the public health dimension of the world drug problem, in accordance with the operational recommendations of the outcome document of the thirtieth special session of the General Assembly, entitled "Our joint commitment to effectively addressing and countering the world drug problem";[2]

18. *Stresses* that breaking the cycles of HIV transmission requires ensuring that all people receive adequate HIV prevention, diagnosis, treatment, care and support throughout their life cycles, including specialized care for HIV and other chronic conditions linked to ageing, response to drug-resistant strains of HIV, and resistance to antiretrovirals as well as antimicrobial resistance;

19. *Urges* States to address the multiple and intersecting forms of discrimination and the specific health-care needs experienced by migrant and mobile populations, and by refugees and crisis-affected populations, in the context of HIV and to eliminate stigma, discrimination and violence, as well as to review policies related to restrictions on entry on the basis of HIV status with a view to eliminating such restrictions and the return of people on the basis of their HIV status, and to support their access to HIV prevention, diagnosis, treatment, care and support;

20. *Stresses* the need to ensure that gender equality strategies also address the impact of harmful gender norms, including delayed health-seeking behaviours, lower coverage of HIV testing and treatment and higher HIV-related mortality among men, in order to ensure better health outcomes for men and to reduce HIV transmission to partners;

21. *Also stresses* that comprehensive HIV prevention, diagnosis, treatment, care and support should be available in prisons and other custodial settings;

22. *Encourages* States, United Nations agencies, funds and programmes, international, regional and non-governmental organizations, national human rights institutions and other relevant stakeholders to ensure the meaningful participation of persons living with or affected by HIV and of key populations both in decision-making processes related to, and in the implementation of, policies and programmes on HIV;

[2] General Assembly resolution S-30/1.

23. *Requests* the United Nations High Commissioner for Human Rights to organize a consultation, in the first half of 2019, in coordination with the Joint United Nations Programme on HIV/AIDS, lasting one and a half days, to discuss all relevant issues and challenges pertaining to respect for and the protection and fulfilment of human rights in the context of the response to HIV, with a focus on regional and subregional strategies and best practices;

24. *Also requests* the High Commissioner to invite to the consultation Member States and all other stakeholders, including relevant United Nations bodies, agencies, funds and programmes, the special procedures, in particular the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the treaty bodies, regional human rights and health organizations and bodies, national human rights institutions and civil society, including persons living with, presumed to be living with, at risk of, or affected by HIV;

25. *Further requests* the High Commissioner to prepare a report on the outcome of the consultation, in which the High Commissioner identifies regional and subregional [illegible] practices to respond to the HIV epidemic and to respect, protect and fulfil the rights of persons living with, presumed to be living with, at risk of, or affected by HIV, and to present the report to the Human Rights Council at its forty-first session.